

House File 2558 - Introduced

HOUSE FILE _____
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HSB 686)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to economic development by providing for the
2 confidentiality of certain details contained in contracts and
3 applications for financial assistance.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6501HV 82
6 tw/nh/5

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1 1 Section 1. Section 15.104, subsection 6, Code Supplement
1 2 2007, is amended by adding the following new paragraphs:
1 3 NEW PARAGRAPH. a. In establishing guidelines, procedures,
1 4 and policies for the awarding of financial assistance, the
1 5 board shall give due regard to the confidentiality of certain
1 6 information disclosed during the financial assistance
1 7 application process and the contract administration process.
1 8 NEW PARAGRAPH. b. All information contained in an
1 9 application for financial assistance submitted to the
1 10 department for eventual consideration by the board shall
1 11 remain confidential while the department is reviewing the
1 12 application, processing requests for confidentiality,
1 13 negotiating with the applicant, and preparing the application
1 14 for consideration by the board. After the board has
1 15 considered a request for confidentiality, any information not
1 16 deemed confidential by the board shall be made publicly
1 17 available. Any information deemed confidential by the board
1 18 shall also be kept confidential by the department during
1 19 administration of a contract executed pursuant to a successful
1 20 application.
1 21 NEW PARAGRAPH. c. The board shall consider the written
1 22 request of an applicant or award recipient to keep
1 23 confidential certain details of an application, a contract, or
1 24 the materials submitted in support of an application or a
1 25 contract. If the request includes a sufficient explanation as
1 26 to why the public disclosure of such details would give an
1 27 unfair advantage to competitors, the board may keep certain
1 28 details confidential. If the board elects to keep certain
1 29 details confidential, the board shall release only the
1 30 nonconfidential details in response to a request for records
1 31 pursuant to chapter 22. If confidential details are withheld
1 32 from a request for records pursuant to chapter 22, the board
1 33 shall release an explanation of why the information was deemed
1 34 confidential and a summary of the nature of the information
1 35 withheld. In considering requests for confidential treatment,
2 1 the board shall narrowly construe the provisions of this
2 2 paragraph and paragraphs "a", "b", "d", and "e" in order to
2 3 appropriately balance an applicant's need for confidentiality
2 4 against the public's right to information about the board's
2 5 activities.
2 6 NEW PARAGRAPH. d. If a request for confidentiality is
2 7 denied by the board, an applicant may withdraw an application
2 8 and any supporting materials, and the board shall not retain
2 9 any copies of the application. Upon notice that an
2 10 application has been withdrawn, the board shall not release a
2 11 copy in response to a request for records pursuant to chapter
2 12 22.
2 13 NEW PARAGRAPH. e. The board shall adopt by rule a process
2 14 for considering requests to keep information confidential
2 15 pursuant to this paragraph and paragraphs "a" through "d".
2 16 The board may adopt emergency rules pursuant to chapter 17A.

2 17 The rules shall include a reasonable period of time for
2 18 keeping information confidential. At the end of such period
2 19 of time, the board may reevaluate its decision to keep
2 20 information confidential. When reevaluating a decision to
2 21 keep information confidential, the board shall use the same
2 22 standard used to make the initial decision. The rules shall
2 23 also include criteria for guiding the board's decisions about
2 24 the confidential treatment of applicant information. The
2 25 criteria may include, but are not limited to the following:
2 26 (1) The nature and extent of competition in the
2 27 applicant's industry sector.
2 28 (2) The likelihood of adverse financial impact to the
2 29 applicant if the information were to be released.
2 30 (3) The risk that the applicant would locate in another
2 31 state if the request is denied.
2 32 (4) Any other factor the board reasonably considers
2 33 relevant.

2 34 EXPLANATION

2 35 This bill relates to the confidentiality of information
3 1 coming before the economic development board. This includes
3 2 applications for financial assistance funds and contracts with
3 3 the board and any materials submitted in support of such
3 4 applications or contracts.

3 5 The bill provides that all information contained in an
3 6 application for financial assistance submitted to the
3 7 department for eventual consideration by the board is to be
3 8 kept confidential while the department is reviewing the
3 9 application, processing requests for confidentiality,
3 10 negotiating with the applicant, and preparing the application
3 11 for consideration by the board. After the board has
3 12 considered a request for confidentiality, any information not
3 13 deemed confidential by the board shall be made publicly
3 14 available. Any information deemed confidential by the board
3 15 shall also be kept confidential by the department during
3 16 administration of a contract executed pursuant to a successful
3 17 application.

3 18 The bill allows an applicant or a contract party to request
3 19 that certain details of an application or contract be deemed
3 20 confidential. If the board finds that the information would
3 21 provide a competitive advantage to competitors of the
3 22 applicant, the board may elect to keep the information
3 23 confidential.

3 24 If the board receives a request for records pursuant to
3 25 Code chapter 22, it must release only the nonconfidential
3 26 portions of the application or contract. When the board
3 27 withholds confidential information, it must also release an
3 28 explanation as to why the information was kept confidential
3 29 and a summary of the nature of the information. The board
3 30 must adopt rules for defining a process for considering
3 31 requests to keep information confidential. The rules are to
3 32 include a reasonable period of time for keeping information
3 33 confidential. At the end of such period of time, the board
3 34 may reevaluate its decision to keep information confidential.
3 35 When reevaluating a decision to keep information confidential,
4 1 the board must use the same standard used to make the initial
4 2 decision. The rules are also to include criteria for guiding
4 3 the board's decisions about the confidential treatment of
4 4 applicant information. The criteria may include but are not
4 5 limited to the nature and extent of competition in the
4 6 applicant's industry sector, the likelihood of adverse
4 7 financial impact to the applicant if the information were to
4 8 be released, the risk that the applicant would locate in
4 9 another state if the request is denied, and any other factor
4 10 the board reasonably considers relevant.

4 11 An applicant whose request for confidentiality is denied
4 12 may withdraw the application, and in such cases, the board
4 13 must not retain a copy of the application or release a copy
4 14 upon a request for records pursuant to Code chapter 22.

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